REMARKS

In light of the above amendments and following remarks, reconsideration and allowance of this application are respectfully requested.

It is submitted that the claims in this application, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification, to make express that which was implicit, for cosmetic purposes, and to round out the scope of protection to which Applicants are entitled.

Claims 1-34 are in this application.

At paragraph 2 of the Office Action of June 10, 2004, the Examiner rejected claims 1-29 under 35 U.S.C. §102(e) as being anticipated by Chery et al. (U.S. Patent No. 6,124,847). Applicants respectfully traverse the rejection.

Applicants note that the Examiner states "Chery discloses an oscilloscope apparatus..." Applicants respectfully submit that Chery et al. shows nothing of the sort. Chery is directed to a detector assembly for a transcription system. Indeed, a computerized word search of Chery et al. confirms that the word "oscilloscope" is not present in this patent. However, each claim of Applicants' application recites **an oscilloscope** in the preamble, and further includes further reference to the oscilloscope in the claims as the source of acquired and processed data signals. Furthermore, the recitation of "**oscilloscope**" assists in defining the types of signals that are to be the subject of the invention. Thus, for example, in the rejection of independent claims 1 and 18,

the Examiner relies on Fig. 1d, element 34 of Chery as allegedly teaching Applicants' claimed display for displaying a plurality of received or processed data signals. Similarly, in the rejection of independent claims 24 and 29, as well as in the rejection of a number of the dependent claims, the Examiner relies on Figs. 11c and 11d, elements 20 and 36 of Chery to teach Applicants' claimed display for displaying a plurality of received or processed data signals. As noted above, Applicants have amended each of the independent claims to clarify that the data signals are "acquired and processed by the oscilloscope." Because Chery et al. fails to depict an oscilloscope, and therefore fails to depict data signals acquired and processed by an oscilloscope, Applicants submit that for this reason alone Chery et al. fails to anticipate the claimed invention.

Independent claim 1 further recites in part, "An oscilloscope apparatus, comprising...a toolbar comprising a plurality of choices displayed on said display, ... only the most common ones of said universal set of choices that apply to the selected data signal determined by the characteristics of the type of selected data signal being displayed in the toolbar, the selected data signal being defined as the data source for the displayed items of the toolbar."

It is respectfully submitted that the reference relied upon by the Examiner does not teach the above-recited feature of independent claim 1.

In the present invention, the user selects a data signal acquired and processed by the oscilloscope, and the system then displays on the toolbar a number of choices. The displayed choices are selected from among a universal set of choices that apply to the selected data signal as determined in accordance with one or more characteristics of the type of selected signal. When the user selects a further item from the displayed toolbar after having selected a particular data signal, the system automatically defines the data signal as the source for the selected item. As a result, selecting an icon from the toolbar will cause an item associated with that icon to be

implemented, using the selected data signal as the data source, or object to be acted upon. In other words, the toolbar items that are presented to the user are determined by the characteristics of the selected data signal, and are not merely a fixed, generic set of choices present in the same manner no matter what type of signal has been selected. Not only is the toolbar specific for the type of selected signal that is displayed, but the items in the toolbar apply only to the specific instance of the selected type of data signal. Therefore, the selected data signal becomes the source of operation implemented by an item selection on the toolbar.

In contrast, Chery et al. discloses toolbar items that are defined only as generic regardless of the type of selected item. There is no discussion in Chery et al. of a signal-type specific toolbar. Referring to the portion of Chery et al. relied upon by the Examiner (column 65, lines 27-51):

> "FIG. 27A illustrates the user interface 550 in greater detail and some of the functions which the user interface 550 performs. For example, the user interface 550 includes a board display area 558 where captured data is displayed. The user interface 550 also includes various toolbars. Three of the most common toolbars are illustrated: The main toolbar 560 includes various common Windows functions including open, delete, save and print. The display toolbar 562 allows the user to change the way the data is being viewed (zoom, multiple board view, etc.). The pen toolbar 564 allows the user to alter the user to input or edit data with virtual pens and erasers. As with most Windows applications, the menu bar 566 allows the user to access program features. Most of the functionality provided through the menu bar can be more readily accessed through the toolbars. The navigation toolbar 570 allows the user to alter various configuration options including board size and pen color. The playback toolbar 571 allows the user to take a recorded transcription session and to playback the transcription session. As illustrated, user can go to the beginning, move back, play, stop, move forward, or go to the end. The playback toolbar 571 also includes a sliding lever 573 which allows the user to move to any portion of the recorded transcription session by moving the sliding lever 573."

Not only is there no customization of the menu in Chery et al., the mere fact that the discussion in Chery et al. is able to describe the choices that are to be presented on the menu

further supports the generic nature of Chery's toolbar. Regardless of the type of selected item, the same generic menu with the same item selections will appear. As a result, the menu items do not change in accordance with the selected item. Therefore independent claim 1 is distinguishable from Chery et al.

For reasons similar to those described above with regard to independent claim 1, independent claims 18, 24, 28 and 29 are also distinguishable from Chery at al.

Applicants submit that claims 2-17, 19-23 and 25-27 depend, either directly or indirectly, from one of the independent claims 1, 18 and 24, and are therefore distinguishable for this reason alone. Additionally, these dependent claims are independently patentable combinations in their own right..

Applicants therefore respectfully request that the rejection of claims 1-29 under 35 U.S.C. §102(e) be withdrawn.

Applicants have also added new claims 30-34, each depending from one of the allowable independent claims noted above. Applicants submit that rejection of these newly submitted claims would be improper.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the applicants undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where in the reference, there is a basis for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to

Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By _____
William S. Frommer
Reg. No. 25,506
(212) 588-0800